



1801 Pennsylvania Avenue, NW  
Washington, DC 20006

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February 9, 1999

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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Re: Cable Bureau Docket No. 98-178

Dear Ms. Salas:

Kecia Boney, Larry Fenster and I of MCI WorldCom met with Anita Walgren, legal advisor to Commissioner Susan Ness and Jane Mago, legal advisory to Commissioner Michael Powell regarding MCI WorldCom's positions in the above referenced proceedings. The attached document, which we would like made part of record in this proceeding summarizes the discussions.

Very truly yours,

Bradley Stillman  
Senior Policy Counsel  
Strategic Advocacy

cc: Anita Walgren  
Jane Mago  
Susan Fox  
Paul Gallant  
Rick Chessen  
Helgard Walker  
Tom Krattenmaker

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**MCI WORLDCOM PRESENTATION**

February 8, 1999

**PROPOSED AT&T AND TCI MERGER**

**I. Conditions and Clarifications Are Needed in Order for the Merger of AT&T/TCI to Be in the Public Interest**

- The proposed merger of AT&T/TCI has the potential of being in the public interest because it could further facilities-based competition. However, conditions are necessary to limit the ability of AT&T/TCI to leverage its monopoly in the cable market into the local market. There is significant risk that cable customers, who will lack choice in service providers, will be required to subsidize AT&T/TCI's entry into the local telephone market.
- The merger could be in the public interest if the Commission protects monopoly cable customers from subsidizing AT&T/TCI's entry into local data and telephone services, and requires AT&T/TCI to lease capacity on its network at reasonable terms and conditions. These conditions would help to ensure that AT&T/TCI's cable customers have a choice of ISPs, and are not subject to higher rates to subsidize non-cable ventures.

**II. The Commission Should Clarify that AT&T/TCI's Telecom Services are Subject to Title II, particularly sections 251(a) and (b)**

- Once AT&T/TCI offers telecommunications over a cable network it will be operating as a LEC and it should be subject to Title II. Common carrier obligations will ensure that consumers will have nondiscriminatory access to their choice of service provider.
- Commission must clarify that once AT&T offers local exchange, local access, or their equivalent, it should be expressly subject to 251(a) & (b).
- TCI currently ties the Internet access and content it makes available to subscribers. At a press conference held on February 2, 1999, where AT&T and Time Warner announced their allegiance, they said publically that CLECs and/or IXC's will be denied access, even when they offer telephone service. This is unacceptable under the 1996 Act.
- Continued growth of internet innovation, and flourishing of resale and UNE competition requires granting reasonable access to AT&T/TCI's facilities.

**III. Rules Preventing Cross Subsidization Are Necessary to Protect AT&T/TCI's Cable Customers and Preserve Competitive Neutrality**

- The combined AT&T/TCI will have markedly different incentives to use TCI's cable customers as subsidy sources than other cable companies.

- AT&T is now the only company that will incur the significant costs associated with providing telephone services over a cable system.
  - ▶ The merger with TCI, and the deals with Time Warner and other cable companies, demonstrate that AT&T is bearing nearly all of the risk of providing telephony over cable. AT&T will pay Time Warner \$1 billion even if it gets no customers.
  - ▶ No other major player will effectively be able to partner with cable companies now that AT&T has already locked up cable access to 90% of the country's most lucrative MSAs.
  - ▶ Remaining cable companies are not likely to provide telephone service on their own. They will partner with AT&T, so AT&T will bear the entire risk of providing telephony over cable.
- No other cable company will have such a strong incentive to charge the full monopoly cable rate.
  - ▶ Shortfall from TCI and Time Warner deals could reach \$1 billion per year.
  - ▶ This will translate into tremendous pressure for cable rate increases each year if AT&T tries to hold its shareholders completely harmless through cable rate increases.
  - ▶ Although it is unlikely AT&T could raise cable rates this much, the risk posed to TCI's cable customers is significant, and differs substantially from other cable customers. This is a serious risk, which should be addressed.
  - ▶ Vertical integration of the cable industry will allow ATT&/TCI to raise the cost of cable programming as another way to recover the monies necessary to cover that shortfall.
  - ▶ As AT&T/TCI takes on the majority of the risk associated with entry into telephony via cable infrastructure, its cable and cable programming customers will be called upon to bear a greater and growing burden of the bulk of the cable industry.
- Existing rules do not prevent the merged company from using its cable customers to subsidize its telephony operations.
  - ▶ CPS customers will become subsidy sources once CPS regulation ends March 31, 1999.
  - ▶ Basic customers will become subsidy sources through exogenous rate adjustments

under the rules governing basic tier.

*Conditions*

- Limit Basic and CPS rate increases for TCI to increases that would be justified under benchmark regulation, which was supposed to emulate a competitive market.
- Categorize Internet services as “per channel services” to prevent exogenous pass-through of Internet programming costs.
- Prohibit pass-through of franchise fees based on taxation of internet and telephone revenues.
- Allocate internet investments and expenses incurred above the franchise level to each franchise according to each franchise’s share of TCI’s internet customers to prevent franchises located in poor communities from subsidizing internet costs of franchises in affluent communities.
- Commission has both legal authority and to set price limits on Basic and CPS rate increases in the context of its merger review.